

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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ROBERT AINBINDER, CECELIA MACKIE,

Plaintiffs,

-against-

THE MONEY CENTER FINANCIAL GROUP, INC.,
NATHAN HINGSON, MICHAEL DEMCHAR,
MICHAEL DESPOSITO, MGM CAPITAL,
MARGARET DESPOSITO, MICHAEL HARMON,

Defendants.
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FEUERSTEIN, J.

On November 16, 2010, plaintiffs Robert Ainbinder and Cecelia Mackie ("plaintiffs") commenced this action against The Money Center Financial Group, Inc. ("The Money Center"), Nathan Hingson, Michael Demchar, Michael Desposito, MGM Capital, Margaret Desposito, and Michael Harmon, asserting claims for breach of contract, unjust enrichment, conversion, damage of reputation, emotional distress, conspiracy, and conspiracy to commit fraud. [Docket Entry No. 1]. On August, 20, 2012, plaintiffs moved for default judgment against The Money Center. [Docket Entry No. 57]. Now before the Court is the Report and Recommendation (the "Report") of Magistrate Judge A. Kathleen Tomlinson dated February 28, 2013 recommending that: (1) the answer filed by The Money Center be stricken; (2) default judgment be entered against the Money Center on plaintiffs' claims for breach of contract and damage to reputation; (3) the calculation of damages against The Money Center be deferred pending resolution of the case against the non-defaulting defendant, Nathan Hingson; and (4) plaintiffs be granted leave to supplement their motion for default judgment with documentation of their requested damages.

FILED
U.S. DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

★ MAR 25 2013 ★

LONG ISLAND OFFICE

ORDER

10-CV-5270 (SJF) (AKT)

No objections to the Report have been filed. For the following reasons, the Court adopts Magistrate Judge Tomlinson's Report in its entirety.

I. Standard of Review

Any portion of a report and recommendation on dispositive matters to which a timely objection has been made is reviewed by the district court de novo. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b). However, the district court is not required to review the factual findings or legal conclusions of the magistrate judge as to which no proper objections are interposed. See Thomas v. Arn, 474 U.S. 140, 150 (1985). To accept the report and recommendation of a magistrate judge on a dispositive matter as to which no timely objection has been made, the district judge need only be satisfied that there is no clear error on the face of the record. See Fed. R. Civ. P. 72(b); Johnson v. Goord, 487 F. Supp.2d 377, 379 (S.D.N.Y. 2007), aff'd, 305 F. App'x. 815 (2d Cir. 2009); Baptichon v. Nevada State Bank, 304 F. Supp.2d 451, 453 (E.D.N.Y. 2004), aff'd, 125 F. App'x. 374 (2d Cir. 2005). Whether or not proper objections have been filed, the district judge may, after review, accept, reject, or modify any of the magistrate judge's findings or recommendations. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b).

II. Analysis

No objections to Magistrate Judge Tomlinson's Report have been filed. Upon review, the Court is satisfied that the Report is not facially erroneous. Accordingly, the Court accepts Magistrate Judge Tomlinson's Report in its entirety. The Money Center's answer is stricken, and default judgment is entered against The Money Center on plaintiffs' breach of contract and damage to reputation claims. **Plaintiffs are granted leave to file, within thirty (30) days from the date of entry of this Order, additional support for their calculation of damages.** The calculation of damages will be deferred pending resolution of plaintiffs' claims against Nathan

Hingson.

In accordance with Rule 77(d) of the Federal Rules of Civil Procedure, the Clerk of Court shall serve a copy of this order upon all parties, including by mailing a copy of this order to the pro se plaintiffs, and record such service on the docket.

SO ORDERED.

/s/ Sandra J. Feuerstein

Sandra J. Feuerstein
United States District Judge

Dated: March 25, 2013
Central Islip, New York